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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,910	08/31/2001	J. Stuart Cumming	HO-P02089US1	2364

26271 7590 03/28/2003

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

EXAMINER

GILPIN, CRYSTAL M

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 03/28/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K

Office Action Summary	Application No.	Applicant(s)	
	09/943,910	CUMMING, J. STUART	
	Examiner	Art Unit	
	Crystal M Gilpin	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 03 February 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Examiner Notes:

1. Page 2, paragraph 2: Misspelling of the word "to" in "Improved
accommodating intraocular lenses according t the invention
include..."
2. Interview Summary form PTO-413, entered 09 January 2003, was corrected to reflect
that applicant's representative, Edward D. Steakley, participated in the interview.

Drawings

The corrected or substitute drawings were received on 3 February 2003. These drawings
are objected to by the draftsman.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-8, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by
Choyce (USPN 4,277,851).

Regarding claim 1, Choyce discloses an intraocular implant with two plate
haptics, having edges situated on the side or laterally, extending from the optic (Figure 3,
reference number 4). The space between the protuberances (Figure 3, reference numbers 2 and
3) and the inward curves on the edges (Figure 3, reference number 6) constitute a notch on the
haptic.

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Regarding claim 2, Choyce discloses that the concavities, or notches, of the end-edges reduce the size and weight of the implant (Column 2, Lines 40-42), thus rendering the implant less likely to move within the eye (Column 3, Lines 36-39).

Regarding claims 3 and 4, Choyce discloses notches with edges that are positioned at an angle from the axis and edges of the haptics (Figure 3).

Regarding claims 5 and 6, Choyce discloses notches with edges that are disposed at an angle which crosses, or is transverse to, the axis and edges of the haptic (Figure 3).

Regarding claim 7, Choyce discloses feet or protuberances extending from the haptics, which serve as support, or fixation, members.

Regarding claims 8 and 18, Choyce discloses an aperture that serves as an opening permitting fluid flow, reduces the weight of the implant and aids in positioning the implant (Figure 3, reference number 7).

Regarding claim 17, Choyce discloses that the edges of the haptic (Figure 3, reference number 6) are tapered inwardly and then outwardly from the optic.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9-14, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crozafon (USPN 5,609,630) in view of Richards et al. (USPN 4,994,082).

Regarding claims 9-14, 21 and 22, Crozafon discloses an intraocular lens to be implanted in the capsule of the eye (Column 1, Lines 2-5) with a single optic (Fig. 1, Ref. Num. 2) and one or more haptics extending from the edge of the optic (Figure 1, Ref. Num. 3) where the inner ends are adjacent to the optic and the outer ends extend from the optic. Crozafon further discloses that the haptics are formed of an elastically deformable material (Column 1, Lines 20-22), and at least one protuberance extending in any combination of anteriorly (Figure 2, Ref. Num. 7), posteriorly or laterally (Figure 4, Ref. Num. 20) from the surface of the haptic (Figure 2, Ref. Num. 7). However Crozafon lacks the teaching of the haptics being adapted to move the optic anteriorly and posteriorly in response to the ciliary muscle. Richards et al. teach of an intraocular lens with haptics that are adapted to move the optic in conjunction with the relaxation and contraction of the ciliary muscle (Column 3, Line 17-Column 4, line 25). Richards et al. further teach of an embodiment where the optic is comprised of two lenses that move radially inwardly and outwardly along the Z-axis, or posteriorly and anteriorly relative to the haptics, (Column 11, Line 49-Column 12) in order to adjust the focal power of the lens. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Crozafon to have the haptics adapted to move the optic anteriorly or posteriorly upon the constriction and relaxation of the ciliary muscle to change the focal power of the lens.

3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crozafon (USPN 5,609,630) or Choyce (USPN 4,277,851) in view of Richards et al. (USPN 4,994,082) and in further view of Nordan (USPN 5,133,749).

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Regarding claim 15, Crozafon and Choyce disclose an intraocular lens but lack the teaching of a thinner portion adjacent to the optic. Nordan teaches of an intraocular lens with haptics that have a thinner cross section near the edge of the optic (Column 1, Line 65-Column 2, Line 2) for different degrees of flexibility. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Crozafon to have haptics with a thinner portion adjacent to the optic in order to attain the desired flexibility.

4. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crozafon (USPN 5,609,630) in view of Richards et al. (USPN 4,994,082) and in further view of Choyce (USPN 4,277,851).

Regarding claims 16-18, Crozafon discloses an intraocular lens but lacks the teaching of haptics with a notch or opening on lateral edges of the haptic, nor does he teach of the haptics being tapered. Choyce teaches of an intraocular lens with haptics that form a notch (Figure 3, reference numbers 2 and 3), have one or more openings (Figure 3, reference number 7) for fluid flow, and tapered edges (Figure 3, reference number 6) to help prevent dislocation of the implant. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Crozafon to have haptics with a notch and tapered edges to prevent dislocation of the implant, and one or more openings to allow fluid flow within the eye.

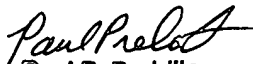
5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crozafon (USPN 5,609,630) in view of Richards et al. (USPN 4,994,082) and in further view of Kelman (USPN 4,463,457).

Regarding claims 19 and 20, Crozafof teaches of an intraocular lens with protuberances but lacks the teaching of protuberances with prong or globular ends. Kelman teaches of an intraocular lens with haptics (Figure 2, Ref. Num 40 and 42) that have prong protuberances (Figure 2, Ref. Num 46 and 48) that have globular knob portions (Figure 2, Ref. Num. 50) for secure fixation within the eye. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Crozafof to have haptics with prong and globular knob portions in order to provide secure fixation of the implant within the eye.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Paul B. Prebille
Primary Examiner

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal M Gilpin whose telephone number is 703-305-8122. The examiner can normally be reached on M-F, 9:00-5:00 (Second Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The group fax phone number for the organization where this application or proceeding is assigned are 703-305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

cmg
March 24, 2003


Paul B. Prebille
Primary Examiner